UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

OVATIONS FOOD SERVICES, L.P.

and

Case 09-CA-046264

NADINE WEAVER

ORDER¹

The Respondent's Motion to Dismiss the Complaint and Notice of Hearing or,
Alternatively, Motion for Summary Judgment is denied. This denial is without prejudice
to the Respondent's right to renew its deferral arguments to the administrative law judge
and to raise the deferral issue before the Board on any exceptions that may be filed to
the judge's decision, if appropriate.²

Dated, Washington, D.C., July 10, 2012

MARK GASTON PEARCE, CHAIRMAN

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

² In its motion, the Respondent asserts that the Acting General Counsel's memorandum GC 11-05 and the instant complaint "arguably are *ultra vires* as a result of the fact that the Acting General Counsel's appointment expired under the Act long before the memorandum was published or the Complaint was issued." For the reasons set forth in *Center for Social Change, Inc.*, 358 NLRB No. 24 (2012), we reject this argument.